

Changes to Unemployment Insurance Would Help Oregon Cope with COVID-19

By Janet Bauer

With some changes, Oregon's Unemployment Insurance (UI) program can help Oregonians better cope with the COVID-19 (coronavirus) pandemic. The virus and efforts to contain it threaten to disrupt the workplace. Quarantines, layoffs, and other upheavals put at risk the economic well-being of working families, especially those living paycheck-to-paycheck. By making appropriate changes to its UI program, Oregon can help workers and businesses weather this health emergency.

This is not to suggest that changes to UI alone will suffice during this emergency. State policymakers also need to discuss strengthening paid sick leave and other worker supports. But it is clear that certain amendments to UI would help protect Oregonians in this time of crisis.

The recommendations below are largely supported by the U.S. Department of Labor's new guidance for making state UI programs responsive to the needs of workers during the crisis.¹

Allow UI for quarantined workers

Unemployment Insurance could help replace lost earnings for workers affected by a quarantine when Oregon's sick leave laws are insufficient.

Nearly all Oregon employers are required to offer unpaid sick leave, and many are also required to offer that leave as *paid* sick leave.² Paid sick leave is particularly important now because it provides economic security for workers who need to stop working when they are quarantined, fall ill, or need to care for a sick family member.

Unfortunately, Oregon's paid sick leave cannot adequately address the crisis at hand. This important protection does not cover all workers. Smaller employers — those in the Portland area with fewer than six workers and those elsewhere with fewer than 10 — are not subject to the paid sick leave law. Additionally, Oregon's law guarantees employees can accrue only 40 hours of paid sick leave each year, the equivalent of five days of full-time work. Yet, health experts indicate that 14 days is a reasonable quarantine period in response to COVID-19.³ So, the state's paid sick days law is inadequate for the current emergency even for workers covered by it.

Oregon's UI system could fill one of these gaps. Oregon should extend UI benefits to workers who are quarantined and lack paid sick leave or have insufficient paid sick time to cover the quarantine period. Providing UI for quarantined workers experiencing loss of earnings would help them and their families weather the isolation period, as well as support compliance.

Allow UI for workers caring for family members

Oregon's Unemployment Insurance program can also help workers in other circumstances and who don't receive paid sick leave or enough paid leave to meet their needs. Workers impacted by

the emergency may need to leave work to care for sick family members or children whose school has closed. Oregon should extend UI benefits to workers in these circumstances as well.

The crisis also demands improvements to Oregon's paid sick leave law

While unemployment insurance can fill some of the gaps in Oregon's paid sick leave law for workers impacted by the pandemic, some of the challenges posed by the COVID-19 crisis are best addressed through a more robust sick leave law. For example, sick leave should be expanded to provide an adequate number of hours for workers who fall ill. Further, the paid leave law should be expanded to cover all Oregon workers, including those working for smaller companies, working in gig industries or are otherwise self-employed.

Waive charges to employers during the emergency

During this pandemic, Oregon should waive UI tax increases for employers. Oregon businesses who lay off workers will likely end up paying higher UI tax rates, because a company's rate is tied to how much its employees use the UI system. Waiving UI rate increases during this health emergency would support impacted businesses and encourage sound decision-making with regard to the real possibility that workers may need to quarantine themselves.

Waive the one-week waiting period

Oregon should do away with the practice of making workers wait at least one week before receiving UI benefits. Under current law, the state pays no UI benefits for the first week a worker meets all the eligibility requirements.⁴ The "waiting week" is an outdated practice and, in normal times, serves no purpose in helping workers cope with a layoff and get back to work.⁵ Due to the time it can take to learn about UI and apply, workers and their families can go without income for several weeks, undermining family stability. The waiting week will make it harder for some households experiencing COVID-19-related layoffs or quarantines to meet basic needs. Oregon should permanently eliminate the one-week waiting period, as many states have done.⁶

Waive work search requirements

During the emergency, Oregon should suspend the requirement that workers search for work. Presently, unless workers are temporarily laid off and expect to return to their job soon, they are required to look for work to receive UI benefits.⁷ Searching for a job during the pandemic could put workers' health in jeopardy, particularly those with lower incomes. While some job search happens online, it often takes place in person, particularly for lower-wage work. Workers with low incomes are more likely to rely on public transportation to look for work, use of which during the pandemic may be ill-advised for some. In addition, lower-income workers are more likely to access the internet in public settings and through public computers, where exposure to contagion is more likely. Further, access to computers may be difficult due to closure of libraries and other public computer sites. Therefore, during the period of emergency, Oregon should suspend the rule requiring workers to search for work in order to receive UI benefits.⁸

Clarify “good cause” to quit a job

Oregon should clarify that workers have a “good cause” to quit a job in a number of outbreak-related circumstances. In general, workers are not eligible for UI if they quit a job without “good cause.”⁹ In the current crisis, Oregon should recognize that workers have good cause to quit if they are forced to perform work that jeopardizes their health. Workers should also be deemed to have good cause if they need to stop working to take care of family members — a quarantined or sick relative, or a child whose school has closed.

A good cause provision for workers needing to care for a quarantined or sick family member could be critical for workers without paid sick leave and in circumstances requiring extended home care. While Oregon’s groundbreaking Paid Family and Medical Leave law could help in the future, benefits will not be available until 2023.¹⁰

Promote Oregon’s UI “work share” option

Oregon’s Work Share program could help workers and employers weather a pandemic-related downturn — if they know about it. Work Share gives an alternative to laying off workers for employers needing to reduce staff.¹¹ Under the program, instead of laying off individuals, an employer reduces the hours of a group of workers. Partial UI benefits are then paid to supplement the workers’ reduced earnings. This arrangement helps workers by keeping them employed, and allows employers to retain talent until business conditions improve. Employers will not take this option unless they know it is available. To protect workers and businesses facing economic hardship in the days ahead, Oregon should take additional steps to promote Oregon’s Work Share program.

Conclusion

While the COVID-19 poses serious risks to Oregonians, the state can ease some of the financial strain experienced by families and businesses during the pandemic by making certain changes to its UI program. Oregon should improve its Unemployment Insurance program through administrative action where possible, and through a special session of the Oregon legislature where statutory changes are required.

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Endnotes

¹ U.S. Department of Labor, “U.S. Department of Labor Announces New Guidance on Unemployment Insurance Flexibilities During COVID-19 Outbreak,” news release, March 12, 2020, available at <https://www.dol.gov/newsroom/releases/eta/eta20200312-0>.

² Employees accrue one hour of sick leave for every 30 hours worked. Oregon’s *paid* sick leave law exempts employers in the city of Portland with fewer than six employees; in the rest of the state, employers with ten or fewer employees are not subject to the requirement. Oregon Bureau of Labor and Industries, Oregon Sick Time, website, available at https://www.oregon.gov/boli/TA/Pages/T_FAQ_OregonSickTime.aspx.

³ Centers for Disease Control and Prevention, “Travelers from Countries with Widespread Sustained (Ongoing) Transmission Arriving in the United States,” web page, available at <https://www.cdc.gov/coronavirus/2019-ncov/travelers/after-travel-precautions.html>.

⁴ Oregon Employment Department, *Unemployment Insurance Claimant Handbook*, page 3, available at [https://www.oregon.gov/employ/Documents/UIPUB350\(English\)11-5-19.pdf](https://www.oregon.gov/employ/Documents/UIPUB350(English)11-5-19.pdf).

⁵ Rachel West, Indivar Dutta-Gupta, Kali Grant, Melissa Boteach, Claire McKenna, and July Conti; *Strengthening Unemployment Protections in America*, Center for American Progress, National Employment Law Project, and Center of Poverty and Inequality, page 59, June 2016, available at <https://s27147.pcdn.co/wp-content/uploads/Report-Strengthening-Unemployment-Protections-in-America.pdf>.

⁶ Twelve states have no waiting period prior to start of UI benefit payments. These include Connecticut, Delaware, Georgia, Iowa, Kentucky, Maryland, Michigan, Nevada, New Jersey, Vermont, Wisconsin, and Wyoming. See U.S. Department of Labor, *Comparison of State Unemployment Laws*, Chapter 3: Monetary Entitlement (2010), available at <https://oui.doleta.gov/unemploy/pdf/uilawcompar/2010/monetary.pdf>.

⁷ Op. Cit. Oregon Employment Department, *Unemployment Insurance Claimant Handbook*, page 6.

⁸ Waiving work search requirements during the crisis would also temporarily address the problematic Oregon rule that part-time workers agree to accept full time work if they are offered it, as a condition of receiving UI. To strengthen its program for the long term and to eliminate discrimination against workers with family responsibilities and personal circumstances that limit their availability for work, Oregon should permanently end the practice of requiring part-time workers to agree to accept full time work. See OAR 471-030-0036 (1)(3)(a), available at <https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=264970>.

⁹ Good cause generally requires that the reason for leaving a job is serious enough that a reasonable person, exercising ordinary common sense, would have no alternative but to quit work. See Oregon Revised Statute 471-030-0038 (4), available at <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=2337>.

¹⁰ Oregon Employment Department, *Paid Family and Medical Leave Program Timeline*, website, available at <https://www.oregon.gov/employ/PFMLI/Pages/PFMLI-Timeline.aspx>.

¹¹ Oregon Employment Department, WorkShare Oregon, available at <https://www.oregon.gov/employ/Unemployment/Pages/Work-Share-Program.aspx>.